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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

GORDON WARREN EPPERLY, Petitioner, v. STATE OF ALASKA, UNITED STATES OF AMERICA Respondents.	Case No. 1:15-cv-00002-SLG **MOTION TO DISMISS**

INTRODUCTION

In this case *pro se* Plaintiff Gordon Epperly asks the Court to nullify the Alaska Marijuana Initiative and to have all existing state marijuana laws invalidated, thereby making the recreational use of marijuana illegal under state law.[1] Alternately, Epperly requests a declaratory judgment stating that all federal laws regarding the criminalization

[1] Petition for a Redress of Grievances Involving Constitutional Controversies of Conflicting Laws, at 46. (*hereinafter* "Petition").

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of marijuana be invalidated, thereby making the recreational use of marijuana legal under federal law.[2] The State of Alaska moves to dismiss the above-captioned matter under Federal Rules of Civil Procedure 7(b), 12(b)(1), and 12(b)(6) because Epperly lacks standing and his complaint fails to state a claim upon which relief can be granted.

Epperly's complaint is verbose, often internally contradictory, and difficult to decipher, but his argument appears to rest on Epperly's perceived disconnect between federal and state treatment of marijuana. Epperly complains that he cannot obtain a prescription for medical marijuana under the current— in his opinion conflicting—legal regime.[3] But because Epperly cannot establish that Alaska's statutory marijuana regime has caused or will cause him to suffer the invasion of any legally protected interest; does not demonstrate that his purported injury was caused by Alaska's recently enacted marijuana laws; and cannot show that his claimed injury would even be remedied by the redress he seeks, he fails to establish Article III standing.[4]

Epperly's argument relies on two fundamental factual errors regarding the state of marijuana laws. First, he erroneously believes that Alaska's recreational marijuana statute, codified at Alaska Statute 17.38.010-900, nullifies Alaska's medical marijuana statute, Alaska Statute 17.37.010-080. Second, he operates under the mistaken belief that medical marijuana use is permitted at the federal level, and that a prescription in Alaska

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[2] Petition, at 46-47.

[3] Petition at 7-9.

[4] *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992).

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would immunize him from federal prosecution. Neither assertion is true, and thus Epperly does not have a legitimate injury-in-fact that provides him with standing to bring this suit. And even if the Court were inclined to issue a declaratory judgment and nullify Alaska Statute 17.37.010-080 as Epperly demands, it would not change the legal status of medical marijuana use in Alaska. Therefore Epperly has failed to state a claim for which relief can be granted his complaint should be dismissed under Federal Rule of Civil Procedure 12(b)(6).

Accordingly, this Court should grant the state's motion to dismiss.

BACKGROUND

The State of Alaska first allowed for the medical uses of marijuana when Ballot Measure No. 8 was approved by voter referendum in 1998. This led to Alaska's medical marijuana statute, Alaska Statute 17.37.010-080. This statute gives patients, primary caregivers, or alternative caregivers registered with the state an affirmative defense to criminal prosecution related to marijuana to the extent provided in Alaska Statute 11.71.090.[5]

In 2014, Ballot Measure No. 2 was approved by voter referendum. The measure, now codified in Alaska Statute 17.38.010-090, made the possession, transfer, and consumption of up to one ounce of marijuana legal for personal use.[6] Alaska Statute

[5] Alaska Statute 17.37.030(a).

[6] Alaska Statute 17.38.020.

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17.38.130 explicitly states that nothing in this chapter shall be construed to limit any privileges or rights of medical marijuana patients under Alaska Statute 17.37.[7] In other words, Alaska's legalization of marijuana for recreational use does not in any way impact the existing statutes and regulations regarding the medical use of marijuana under state law.

Under federal law, illicit drugs are governed by the Controlled Substances Act, 21 U.S.C. § 801 *et seq*. ("CSA"). The CSA "creates a comprehensive, closed regulatory regime criminalizing the unauthorized manufacture, distribution, dispensing, and possession of substances classified in any of the Act's five schedules."[8] The CSA classifies drugs into schedules according to their potential for abuse, their safety, and their potential use for medical purposes.[9] Schedule I drugs, those that have "no currently accepted medical use in treatment," are the most tightly controlled.[10] The list of Schedule I drugs, which includes marijuana, is found at 21 C.F.R. § 1308.[11] Federally, marijuana is still considered a Schedule I drug with no exceptions to its use for medical purposes. In other words, under federal law, there is no medical related use defense to prosecution

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[7] Alaska Statute 17.38.130.

[8] *Gonzales v. Oregon*, 546 U.S. 243, 240 (2006) (citations omitted).

[9] 21 U.S.C. § 812.

[10] 21 U.S.C. §812(b)(1).

[11] Specifically, the restriction on marijuana products, known scientifically as "tetrahydrocannabinols" is found at 21 C.F.R. § 1308.11(d)(31).

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under the CSA and its corresponding prohibitions on manufacturing and distributing marijuana.[12] The terms of the CSA leave no doubt that the medical necessity defense is unavailable to manufacturers and distributors of marijuana charged with violating federal—as opposed to state—law.[13]

STANDARDS OF REVIEW

In order to bring a case in this court, a plaintiff must establish standing under the federal rules of civil procedure. The U.S. Supreme Court has established three elements to standing:

1. **Injury-in-fact:** The plaintiff must have suffered or imminently will suffer injury—an invasion of a legally protected interest that is (a) concrete and particularized, and (b) actual or imminent (that is, neither conjectural nor hypothetical; not abstract). The injury can be either economic, non-economic, or both.[14]

2. **Causation:** There must be a causal connection between the injury and the conduct complained of, so that the injury is fairly traceable to the challenged

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[12] Admittedly, the most recent federal spending bill, passed in December 2014 contains a clause prohibits the Department of Justice from using funds to go after state-legal medical cannabis programs. However, marijuana is still listed as a Schedule 1 drug. Consolidated and Further Continuing Appropriations Act, 2015, sec. 538, pg. 213.

[13] *United States v. Oakland Cannabis Buyer's Coop.*, 532 U.S. 483 (2001).

[14] *Lujan*, 504 U.S. at 560; *Allen v. Wright*, 468 U.S. 737, 756 (1984); *Warth v. Seldin*, 422 U.S. 490, 508 (1975); *Sierra Club v. Morton*, 405 U.S. 727, 740–741, n. 16 (1972); *Los Angeles v. Lyons*, 461 U.S. 95, 102, (1983).

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action of the defendant and not the result of the independent action of some third party who is not before the court.[15]

3. Redressability: It must be likely, as opposed to merely speculative, that a favorable court decision will redress the injury.[16]

In addition to standing, a plaintiff must present a claim upon which relief can be granted. Failure to state such a claim is an affirmative defense under Federal Rule of Civil Procedure 12(b)(6). To survive a motion to dismiss under Rule 12(b)(6), "a complaint must include factual allegations that are enough to raise a right to relief above the speculative level."[17] To achieve this, "the complaint must contain sufficient matter, accepted as true, to state a claim to relief that is plausible on its face."[18]

While acknowledging "the important goals served by lenient treatment of *pro se* litigants," federal courts also recognize that such treatment "must necessarily yield to prejudice suffered by the court and other parties."[19] And although *pro se* pleadings are liberally construed, "*pro se* litigants in the ordinary civil case should not be treated more

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15 *Lujan*, 504 U.S. at 560; *Simon v. Eastern Ky. Welfare Rights Organization*, 426 U.S. 26, 41–42 (1976).

16 *Lujan*, 504 U.S. at 560; *Simon*, 426 U.S. at 38, 43.

17 *Suulutaaq, Inc. v. Williams*, 782 F.Supp.2d 795, 804 (D. Alaska 2010) (internal citations and quotations omitted).

18 *Id*. (internal citations and quotations omitted).

19 *See, e.g.*, *Haines v. Kerner*, 404 U.S. 519, 520 (1972); *VonGrabe v. Sprint PCS*, 312 F.Supp.2d 1313, 1319 (S.D. Cal. 2004).

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favorably than parties with attorneys of record."[20] Epperly's *pro se* status notwithstanding, the court should dismiss this case for lack of standing and for failure to state a claim under Rule 12 (b)(6), for the following reasons.

ARGUMENT

I. PLAINTIFF LACKS STANDING AND HIS COMPLAINT SHOULD BE DISMISSED UNDER FEDERAL CIVIL RULE 12(b)(1).

Article III of the Constitution limits the jurisdiction of federal courts to "cases" and "controversies."[21] The standing doctrine "gives meaning to these constitutional limits" and "serves to prevent the judicial process from being used to usurp the powers of the political branches."[22] A suit brought by a litigant without standing does not present a justiciable case or controversy and is therefore not appropriate for this court's review.[23] If a plaintiff lacks standing, the federal court lacks subject matter jurisdiction over the case and dismissal is proper under Rule 12(b)(1).[24] "The irreducible constitutional minimum of standing contains three elements," injury-in-fact, causation, and redressability.[25]

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[20] *Jacobsen v. Filler*, 790 F.2d 1362, 1364 (9th Cir. 1986).

[21] *Munns v. Kerry*, 782 F.3d 402, 409 (9th Cir. 2015) (citation omitted).

[22] *Id*. (internal citations and quotations omitted).

[23] *Steel Co. v. Citizens for a Better Environment*, 523 U.S. 83, 101 (1998); *Warren v. Fox Family Worldwide, Inc.*, 328 F.3d 1136, 1140 (9th Cir. 2003); *Scott v. Pasadena Unified Sch. Dist.*, 306 F.3d 646, 664 (9th Cir. 2002).

[24] *Warren*, 328 F.3d at 1140.

[25] *Id*.

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Because Epperly cannot meet his burden of establishing that each of these three elements are met, his complaint should be dismissed.

In order to have Article III standing, a plaintiff must have suffered an "injury-in-fact" that amounts to an "invasion of a legally protected interest" which is "concrete," "particularized," "actual," and "imminent," as opposed to "conjectural or hypothetical."[26] In other words, a plaintiff must show that he has personally suffered a "particularized" injury.[27] Throughout his complaint, however, Epperly equivocates about whose legally protected interest is even at stake in this case. At times, he suggests that the federal government is the aggrieved party because he believes that the state of Alaska is violating federal law.[28] But a private plaintiff cannot bring a complaint on behalf of the federal government.[29] In order to establish standing, Epperly must claim an injury that affects himself in a personal and individual way.[30] This he cannot do.

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[26] *Id*. (internal citations and quotations omitted).

[27] *Id*.

[28] *See, generally*, Petition, at 2-4.

[29] *Linda R.S. v. Richard D.*, 410 U.S. 614, 619 (1973) (holding that "a private citizen lacks a judicially cognizable interest in the prosecution or nonprosecution of another.") So-called "citizen suits" are only permissible if the statute the private citizen is seeking to enforce contains a specific provision allowing for citizen suits. *Durr v. Strickland*, 602 F.3d 788, 789 (6th Cir. 2010). The Controlled Substances Act does not contain such a provision. *Cf*. Clean Water Act of 1987, 33 U.S.C. § 1365 (1987); Americans with Disabilities Act of 1990, 42 U.S.C. § 12188 (1990).

[30] *Lujan*, 504 U.S. at 560.

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Epperly claims that he has been unable to procure a prescription for marijuana to treat pain related to cancer treatment.[31] But he fails to show how this amounts to the invasion of his legally protected interest. Alaska Statute 17.37.010-080 allows qualifying Alaska residents to obtain a medical prescription for marijuana. Alaska Statute 17.37.070(4)(A) explicitly covers patients suffering from both cancer and severe pain, the conditions Epperly seeks to treat.[32] Alaska Statute 17.38.130, which authorizes recreational use of marijuana under state law, explicitly states that nothing in that section has an effect on the state's medical marijuana laws.[33] As a result, to the extent that Alaska's medical marijuana provisions give rise to any legally protected interest that Epperly might seek to protect, that interest has not been invaded as a result of Alaska's more recently-enacted recreational marijuana use and possession laws. Epperly remains free to obtain a medical marijuana prescription whenever he is able to find a doctor willing to prescribe it. Since nothing in Alaska's marijuana statutes creates a legal obstacle to Epperly's desire to obtain a prescription for medical marijuana, his claim of standing fails due to lack of injury-in-fact. Similarly, Epperly's "confusion"

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[31] Petition, at 8-10.

[32] Alaska Statute 17.37.070(4)(A).

[33] Alaska Statute 17.38.130.

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and "perplexity" over his misperceptions of state and federal law on this issue are not a legally cognizable injury-in-fact.[34]

Epperly similarly fails to establish causation. In order to establish standing," there must be a causal connection between the injury and the conduct complained of, so that the injury is fairly traceable to the challenged action of the defendant and not the result of the independent action of some third party who is not before the court."[35] In this case, there is no causation between Epperly's inability to get a prescription and the statutory scheme he challenges. Alaska Statute 17.38.130 explicitly states that "nothing in this chapter shall be construed to limit any privileges or rights of medical marijuana patients under Alaska Statute 17.37."[36] In other words, the legalization of marijuana for recreational use does not in any way impact statutes and regulations related to the medical use of marijuana under Alaska state law, and it is not Alaska's conduct or statute that has purportedly injured Epperly. His alleged harm is attributed to the fact that medical doctors appear to be unwilling to write a prescription for him.[37] This is a classic example of a party attempting to fault a defendant for the actions of an independent action of a

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[34] Petition, at 10.

[35] *Lujan*, 504 U.S.at 560 (citing U.S. Const. art. III, sec. 1 et seq.).

[36] Alaska Statute 17.38.130.

[37] Note that the state does not have the authority to write a prescription for Mr. Epperly. Only a licensed medical professional can make the determination of whether Mr. Epperly even meets the standard for needing a prescription. He may very well not.

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third party who is not before the court. Even if Epperly's inability to obtain a prescription could properly be considered an injury-in-fact, the cause of his injury is not fairly traceable to the statute he now seeks to have nullified.[38] Because Epperly's causal chain is both highly attenuated and depends on the acts of independent third parties, he cannot establish Article III standing.

The third component of standing is redressability: it must be likely, as opposed to merely speculative, that a favorable court decision will redress the injury.[39] Here, Epperly complains of his purported inability to obtain a prescription for medical marijuana use to alleviate pain, and he asks the Court to make one of three alternative rulings.[40] First, that "the Alaska Marijuana Ballot Initiative and all existing marijuana laws of the State of Alaska are null, and void."[41] Second, that this court issue an injunction prohibiting the application and implementation of all laws within the state of Alaska that authorize the use of marijuana for recreational and medical purposes.[42] Or third, that this

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[38] Epperly argues that doctors will not write a prescription because they are afraid of being prosecuted. Petition, at 8-9. However, Alaska's previous statutory regime only criminalized the possession, manufacture, and distribution of marijuana products, prescribing marijuana never resulted in criminal liability. AS 11.71.040, AS 11.71.160(f). Epperly is incorrect in his statement that writing a prescription is "aiding and abetting" for purposes of 18 U.S.C. § 2. *Conant v. Walters*, 309 F.3d 629, 635-636 (9th Cir. 2002).

[39] *Lujan*, 504 U.S. at 560 (citing U.S. Const. art. III, sec. 1 *et seq.*).

[40] Petition at 46-47.

[41] Petition, at 46.

[42] Petition, at 47.

court issue a declaratory judgment stating that the "marijuana blanket policies" of the U.S. Justice Department are null and void.[43] But none of the three alternative remedies Epperly seeks will redresss his claimed injury. Epperly's first request, that the Court nullify Alaska Statute 17.48 *et seq*.,would have no effect on Alaska's medical marijuana statute, Alaska Statute 17.47.010-080, and thus have no effect on Epperly's ability or inability to obtain a prescription from a licensed provider for medical marijuana use. Epperly's second request would nullify Alaska's medical marijuana statute, making it *more* difficult for Epperly to obtain a prescription. His third request—to nullify a federal policy regarding prosecutorial discretion—would similarly make it *more difficult* for Epperly to obtain a prescription. A decision in Epperly's favor will thus hinder, not assist, him in the ability to procure a prescription for medical marijuana use. Since none of Epperly's requested actions would provide relief for his claimed injury-in-fact, Plaintiff's action fails for lack of redressability.

Epperly has failed to establish that he suffered an injury-in-fact on an invasion of a legally protected interest which is concrete and particularized and actual or imminent rather than conjectural or hypothetical; that there is a causal connection between the purported injury and conduct complained of so that the injury is fairly traceable to the challenged action of the defendant and not the result of the independent action of some third party who is not before the court; and that it be likely, as opposed to

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43 Petition, at 47.

merely speculative, that the purported injury will be redressed by a favorable decision. Therefore this court should dismiss Petitioner's complaint for lack of standing.

Epperly also cites the Racketeer Influenced and Corrupt Organizations Act (RICO) as an alternative basis to invoke the court's jurisdiction.[44] However, RICO has a statutory standing provision that is narrower than the general Article III injury-in-fact standing.[45] Thus if Epperly cannot establish Article III standing, he cannot possibly establish RICO standing.

II. PLAINTIFF FAILS TO ALLEGE ANY PLAUSIBLE, NON-SPECULATIVE FACTUAL ALLEGATION SUFFICIENT TO STATE A CLAIM UNDER CIVIL RULE 12(b)(6).

To survive a motion to dismiss under Federal Civil Rule 12(b)(6), "a complaint must include factual allegations that are enough to raise a right to relief above the speculative level."[46] In other words, "the complaint must contain sufficient matter, accepted as true, to state a claim to relief that is plausible on its face."[47]

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[44] Petition at 3, 4, 45, (citing 18 U.S.C. § 1961(1)(D)).

[45] *See Canyon County v. Syngenta Seeds, Inc.*, 519 F.3d 969, 975 n.7 (9th Cir. 2008).

[46] *Suulutaaq,* 782 F.Supp.2d at 804 (internal citations and quotations omitted); *See also Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555-6 (2007).

[47] *Suulutaaq,* 782 F.Supp.2d at 804 (internal citations and quotations omitted).

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Dismissal is appropriate when a complaint lacks a cognizable legal theory or lacks sufficient facts to support a cognizable legal theory.[48] Epperly's conclusory allegations of law—in addition to being premised on mistaken factual assertions about the interplay between both state and federal law regarding marijuana use—do not state a cognizable legal theory and are insufficient to state a claim for relief.[49]

Epperly's brief appears to allege three different claims. First, he claims that Alaska's marijuana laws are in conflict with the federal government's laws. But as noted above, Epperly cannot bring a claim on behalf of the federal government.[50] The CSA is enforceable only by the United States Attorney General. Congress chose not to create a cause of action for civil litigants to enforce the CSA's provisions.[51]

Second, Epperly argues that his perceived disconnect between state and federal law has left him "in a state of perplexity and confusion . . . ."[52] A plaintiff's confusion; however, is simply not a cognizable legal theory sufficient to raise a right to relief.

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[48] *Mendiondo v. Centinela Hosp. Medical Center*, 521 F.3d 1097, 1103-1104 (9th Cir. 2008).

[49] *Pareto v. F.D.I.C.*, 139 F.3d 696, 699 (9th Cir. 1998).

[50] *Supra*, note 29.

[51] *See, e.g.*, *Durr*, 602 F.3d at 789 (affirming that "no private right of action exists under" the CSA); *United States v. 1840 Embarcadero*, 932 F. Supp. 2d 1064, 1072 (N.D. Cal. 2013) ("[C]ourts have consistently held that there is no private right of action under the CSA . . . .").

[52] Petition, at 10.

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Overturning Alaska Statute 17.37 is unlikely to alleviate Epperly's confusion or remedy his misconceptions of state and federal law.

Third, Epperly appears to fault Alaska's new marijuana statute for somehow denying him the right to obtain a prescription for marijuana. But as discussed above, Alaska Statute 17.38.130 explicitly states that "nothing in this chapter shall be construed to limit any privileges or rights of medical marijuana patients under Alaska Statute 17.37."[53] The plain terms of Alaska Statute 17.38.130 make clear that Alaska's legalization of marijuana for recreational use does not in any way impact the statutes and regulations related to the medical use of marijuana under state law. If Epperly were to be granted the relief he requests, this would not change his ability to obtain a prescription for medical marijuana.

Epperly cites RICO as an alternative theory to invoke the court's jurisdiction. However, Epperly fails to state a claim for which relief can be granted because the section of RICO he cites only relates to adverse effects or disruption to a *business interest*.[54] Epperly does not claim to have any business interests related to AS 17.38. Therefore RICO does not apply.

Since Epperly has failed to state any claim for which relief can be granted by this court, his complaint should be dismissed.

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[53] Alaska Statute 17.38.130.

[54] Petition at 3, 4, 45; 18 U.S.C. § 1962.

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III. PLAINTIFF CANNOT BRING A CLAIM DIRECTLY UNDER THE SUPREMEMACY CLAUSE

Epperly raises a preemption issue and makes a Supremacy Clause claim a number of times throughout his complaint.[55] However, to the extent his complaint raises a Supremacy Clause or an attempted stand-alone preemption claim, neither can be considered a cognizable legal theory for a claim for purposes of Federal Rule 12. The Supremacy Clause does not confer a private right of action. The U.S. Supreme Court recently reiterated this principle by clarifying that while the Supremacy Clause provides a rule of priority, it is not in itself a source of any federal rights and does *not* create a cause of action.[56] Specifically, *Armstrong* held that the Supremacy Clause is not the source of any federal rights, and certainly does not create a cause of action; it instructs courts what to do when state and federal law clash, but it is silent regarding who may enforce federal laws in court, and in what circumstances they may do so.[57] In other words, a litigant such as Epperly may not bring a claim solely on the theory that a violation of the Supremacy Clause has occurred.

Epperly's arguments related to preemption raise similar concerns. The U.S. Supreme Court has warned against grafting a preemption cause of action onto a federal

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55 Petition, at 25, 35, 45.

56 *Armstrong v. Exceptional Child Center* 135 S.Ct. 1378 (2015); *Golden State Transit Corp. v. City of Los Angeles*, 493 U.S. 103, 107 (1989).

57 *Armstrong*, 135 S.Ct., at 1383.

statute.[58] In *Douglas*, the U.S. Supreme Court held that if a federal agency charged with enforcing a federal statute has taken a position on the interaction between that statute and state law, allowing private suits would threaten to "defeat the uniformity that Congress intended by centralizing administration of the federal program."[59] In this case, the federal government has determined not to affirmatively displace Alaska's marijuana laws and regulatory framework.[60] Congress has endorsed a policy, at least with respect to medical marijuana, supportive of state regulatory and licensure laws.[61] As a private citizen, Epperly does not have standing to upset those administrative and political decisions, and therefore again fails to state a claim upon which relief can be granted.

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58 *Douglas v. Independent Living Center of Southern California, Inc.*, 132 S.Ct. 1204, 1210-1211, (2012).

59 *Id*.

60 In testimony to the Senate Judiciary Committee, Deputy Attorney General Cole explained the reasons for the Administration's policy: preempting state marijuana laws would lead to a regulatory vacuum, and "what you'd have is legalized marijuana and no enforcement mechanism within the state to try and regulate it. That's probably not a good situation to have." Conflicts Between State and Federal Marijuana Laws: Hearing Before S. Comm. On the Judiciary, 113th Cong. (Sept. 10, 2013) (live testimony of James M. Cole, Deputy Attorney General), available at http://tinyurl.com/nbm6qq4. He further explained that dismantling a state's regulatory system would lead to an expanded black market, instead of "the state regulat[ing] on a seed to sale basis." *Id*.

61 *See* Pub. L. No. 113-235, tit. V, § 538.

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IV. PLAINTIFF'S CLAIM, IF GRANTED, WOULD PRESENT A VIOLATION OF THE 10TH AMENDMENT

Epperly's complaint also rests on a conceptual error regarding preemption and the 10th Amendment. The Alaska law that Epperly claims "legalizes" marijuana in fact does no such thing. What it actually does is to modify state laws that previously prohibited marijuana, so that now people who comply with the state's regulatory requirements will not be subject to *state* prosecution for marijuana cultivation, distribution, or possession.[62]

Federal law operates of its own force and states are not under any obligation to enact copies of federal law.[63] Therefore, Alaska was never obligated—and could not constitutionally have been given an obligation—to enact its own laws forbidding marijuana or to enforce federal laws forbidding marijuana in the first place. Congress lacks the constitutional power to require states to enact laws because such "commandeering" of state legislatures, would contravene state sovereignty.[64]

Therefore, because Alaska has and can have no federal obligation to forbid marijuana at all, this loosening of its prohibition does not contravene federal law. There is no preemption of state decriminalization of marijuana via the CSA—and if there were, that preemption would contravene the anti-commandeering rules of *New York* and *Printz*. Therefore, Epperly again fails to state a claim upon which relief can be granted.

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[62] Alaska Statute 17.38.010-900.

[63] *Printz v. United States* , 521 U.S. 898, 911-912 (1997).

[64] *New York v. United States*, 505 U.S. 144, 149 (1992).

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CONCLUSION

For the foregoing reasons, Epperly lacks the necessary standing to bring this complaint, and Epperly does not present a claim for which relief can be granted by this Court. Therefore, the State of Alaska asks the Court to dismiss this case with prejudice.

DATED: June 8, 2015.

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Certificate of Service
The undersigned hereby certifies that on the 8th day of June, 2015,true and correct copies of the foregoing documents, **MOTION TO DISMISS** and **[PROPOSED] ORDER** were served on the following parties of record via USPS, and electronically via email, pursuant to the court's electronic filing procedures:

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